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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,764	02/28/2005	Katsushi Tsutsui	FP3002-0034	9956
39083	7590	08/29/2006		EXAMINER
CERMAK & KENEALY, LLP				CRAIG, PAULA L
515 EAST BRADDOCK RD SUITE B			ART UNIT	PAPER NUMBER
Alexandria, VA 22314				3761

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/525,764	TSUTSUI, KATSUSHI	
	Examiner	Art Unit	
	Paula L. Craig	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 June 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/7/06.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. The objection to the specification is withdrawn. As to the rejections of Claims 1-7, Applicant's arguments filed June 13, 2006 have been fully considered but they are not persuasive. For Claims 1 and 6-7, Applicant argues that Mizutani '385 does not teach the panel member 16 imparting a contracting force with respect to the longitudinal direction. The word "resilient" generally refers to elasticity or the power to return to an original form after being bent or stretched; there is no evidence that the Applicant intends to be his own lexicographer in regard to this word. The resilient body of Mizutani includes not only panel member 16, but also elastic members 11, as stated in the prior Office Action mailed March 14, 2006. The elastic members 11 of Mizutani run longitudinally and are stated to contract, which would apply at least some contracting force on the absorbent in the longitudinal direction (Fig. 1 and col. 2, lines 33-37). Applicant's specification indicates that a plurality of linear rubbers may be part of the resilient body (specification, page 37, lines 12-16). Even considering the panel member 16 alone, given that the panel member 16 of Mizutani is also resilient, it would be impossible to avoid at least some application of contracting force on the absorbent in the longitudinal direction by the panel member 16 as the wearer sits, stands, and moves around in various positions (col. 3, lines 53-55). The claim does not require any particular degree of contracting force, nor that contracting forces in other directions must be absent. The claim does not require that the absorbent core not have a convex

ridgeline. For Claims 6-7, the only element of the claims not taught by Mizutani is the layer having high liquid diffusivity. Applicant has not presented any evidence that such a layer is not well known in the art.

2. For Claims 2-5, Applicant argues that the Mizutani reference shows the panel member 16 being convexly deformed. The claims do not require that the absorbent core not have a convex ridgeline or that convex deformation of the absorbent core should be lacking. Applicant also argues that the Mason '513 reference teaches a number of different resilient members that provide a frame about the periphery of a pad, rather than a resilient body. The claims do not require that the resilient body must be integral or that it cannot have openings extending through it. Mason teaches a variety of integral shapes for the resilient body, all of which include resilient members in the center region; note that the center region as claimed refers to the lateral direction (Figs. 7, 8, 9, 11, 15-20, 24, and 25). The purpose of the resilient reinforcing members in Mason is the same as that of the elastic members 11 and panel member 16 of Mizutani, to conform the pad to the body in the various parts of the pad (Mason, col. 6, lines 16-20, Mizutani, col. 2, lines 33-37 and col. 3, lines 29-39). The rejections of Claims 1-7 are maintained for the reasons of record.

Claim Objections

3. Claims 8-14 are objected to because of the following informalities: In Claim 8, line 10, "the absorbent product" should be "the absorptive product". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. The rejection of Claim 1 under 35 U.S.C. 102(b) as being anticipated by Mizutani '385 is maintained for the reasons of record.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. The rejections of Claims 2-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani '385 in view of Mason '513 are maintained for the reasons of record.
8. The rejections of Claims 6-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani '385 in view of Lassen '563 are maintained for the reasons of record.
9. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani '385 in view of U.S. Patent Application Publication No. 2002/0156450 to Drevik et al.
10. For Claim 8, Mizutani '385 teaches an absorptive product that is elongate in a longitudinal direction and has a surface side configured for contact with a body (Figs. 1 and 3 and col. 1, lines 4-8). Mizutani teaches a back sheet which has a shape

elongated in one direction and prevents the permeation of liquid (backsheet 7, Fig. 3 and col. 2, lines 19-25). A liquid permeable surface material is arranged on the surface side configured for contact with a body (topsheet 6, Fig. 3 and col. 2, lines 19-25). An absorbent is arranged between the back sheet and the surface material and is capable of absorbing and holding a liquid which permeates the surface material (absorbent core 8, Fig. 3 and col. 2, lines 19-26). A resilient body is fixed at least to the absorbent in a center region in a lateral direction of the product and imparts a contracting force to the absorbent with respect to the longitudinal direction (elastic members 11, deformation inducing means 15, and panel member 16, Figs. 1-3, col. 2, lines 33-61 and col. 3, lines 18-62). Mizutani teaches slits formed in the absorbent in a region on which the contracting force of the resilient body acts (slits are deformation guiding means 13, 14, and 20, col. 2, line 62 to col. 3, line 52). Mizutani teaches that the product follows the contour of the external genital organs (col. 3, lines 30-34). Mizutani does not teach the resilient body being offset from a center of the absorbent product in the longitudinal direction. Applicant's specification does not disclose that an offset serves any stated purpose or solves any particular problem. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980). In addition, resilient members which are offset to some extent from a center of an absorptive product in the longitudinal direction are well known in the art. Drevik confirms this and teaches an absorptive product having a resilient body which imparts a contracting force to the absorbent with respect to the longitudinal direction, and which is offset from the center of the absorptive product in the longitudinal direction (hump-forming element 24 and elastic means 16, Figs. 3, 5, and 7-10, Abstract,

paragraphs 82 and 85-88). Drevik teaches the resilient body conforming to the contours of the body (Figs. 3, 5, and 7-10, Abstract, paragraphs 82 and 85-88). Drevik also has a slit formed in the absorbent in a region on which the contracting force of the resilient body acts (absorbent is stiffening/absorbent element 6, Figs. 1, 3, 5, and 7-10 and paragraphs 66, 100, 106, 109, 116). Drevik teaches that the absorbent may be compressed in specific zones according to a desired pattern (paragraphs 68-69). It would have been obvious to one of ordinary skill in the art to modify Mizutani to include an offset, as taught by Drevik, to conform to the contours of the body, as taught by Drevik.

11. For Claim 9, Mizutani does not teach the resilient body imparting the contracting force mainly along the longitudinal direction. However, a resilient body imparting a contracting force to the absorbent mainly along the longitudinal direction of the product is well known in the art, as indicated in the prior Office Action mailed March 14, 2006 for Claim 1. Drevik teaches the resilient body imparting the contracting force mainly along the longitudinal direction of the product, to better conform to the contours of the body (Figs. 3, 5, and 7-10, Abstract, paragraphs 82 and 85-88). It would have been obvious to one of ordinary skill in the art to modify Mizutani to include the resilient body imparting the contracting force mainly along the longitudinal direction of the product, as taught by Drevik, to conform to the contours of the body, as taught by Drevik.

12. For Claim 10, Mizutani teaches the slits having longitudinal end sides parted away from the resilient body (deformation guiding means 20, Fig. 1).

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13. For Claim 11, Mizutani teaches the slits being formed adjacent both sides of the resilient body such that one slit is formed on each side in symmetry and both slits have center portions thereof in the longitudinal direction thereof arranged close to each other and other portions thereof gradually parted away corresponding to the distance from the center portions (deformation guiding means 20, Fig. 1).

14. For Claim 12, Mizutani teaches the resilient body being formed of a film-like resilient body (col. 3, lines 53-57). Mizutani teaches the resilient body imparting a contracting force in the longitudinal direction (col. 2, lines 33-61 and col. 3, lines 18-62). Mizutani does not expressly teach the contracting force being imparted mainly in the longitudinal direction. Drevik teaches the contracting force being imparted mainly in the longitudinal direction, as described above for Claim 9 in paragraph 11. It would have been obvious to one skilled in the art to modify Mizutani to include the contracting force being imparted mainly in the longitudinal direction, as taught by Drevik, for the same reasons as described above for Claim 9 in paragraph 11.

15. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani '385 in view of Drevik and further in view of Lassen.

16. For Claim 13, Mizutani/Drevik teach all the limitations of Claim 8, as described above in paragraph 10. Mizutani teaches the absorbent being formed by stacking a first absorbent layer and a second absorbent layer (cores 8a and 8b, Fig. 6 and col. 4, lines 18-23). Mizutani teaches the second absorbent layer having high liquid holding property and the resilient body being fixed to the second absorbent layer (Fig. 6 and col.

4, lines 20-24). Mizutani teaches the slits being formed in the second absorbent layer (Figs. 3-6). Mizutani does not expressly teach the first absorbent layer having high liquid diffusivity. However, including in a stack of absorbent layers a layer having high liquid diffusivity is well known in the art of absorptive products. Lassen confirms this and teaches an absorptive product having first and second absorbent layers, with the first layer having high liquid diffusivity (transfer layer 23, Figs. 1-2 and paragraph 23). Lassen teaches the transfer layer functioning to rapidly transport body fluids into the absorbent core and reducing the occurrence of rewet (paragraph 23). It would have been obvious to one skilled in the art to modify Mizutani to include the first absorbent layer having high liquid diffusivity, as taught by Lassen, to rapidly transport body fluids into the second absorbent layer and reduce the occurrence of rewet.

17. For Claim 14, Mizutani teaches a notched portion being formed in the first absorbent layer corresponding to a position where the resilient body is formed (deformation guiding means 13 and 20 form notches in the first absorbent layer; Fig. 6).

Conclusion

18. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 6:30AM-3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

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